

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

SEAN M. CARTER

Plaintiff,

V.

DEPARTMENT OF CORRECTIONS,
HEAD QUARTERS

Defendant.

CASE NO. 3:09-CV-651-MEF

MEMORANDUM OPINION AND ORDER

On July 13, 2009, Plaintiff initiated this lawsuit by filing a Complaint (Doc. # 1). Plaintiff seeks a temporary restraining order prohibiting Defendant from continuing to infringe upon his “Belief” by serving him meat and forcing him to cut his hair. This Court now addresses Plaintiff’s request for a temporary restraining order.

A district court may issue a preliminary injunction where the moving party demonstrates (1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest. *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000); *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998); *All Care Nursing Serv., Inc. v. Bethesda Mem'l Hosp., Inc.*, 887 F.2d 1535, 1537 (11th Cir. 1989). “[A] preliminary injunction is an extraordinary and drastic remedy

not to be granted unless the movant clearly established the ‘burden of persuasion’ ” as to each of the four prerequisites. *McDonald's Corp.*, 147 F.3d at 1306 (internal citations and quotations omitted).

Here, Plaintiff alleges that Defendant violated his First Amendment rights by serving him meat and cutting his hair. The Court finds that Plaintiff has not demonstrated a “substantial likelihood of success on the merits” and has not shown that “irreparable injury will be suffered unless the injunction issues.” Further, the Court finds that the threatened injury to the movant does not outweigh the damage the temporary restraining order may cause Defendant. Accordingly, the Plaintiff’s Motion for Temporary restraining order (Doc. # 1) is due to be and hereby is DENIED.

It is further ORDERED that this case is hereby referred to Magistrate Judge Wallace Capel for action or recommendation on all pretrial matters including the pending motion for preliminary injunction.

DONE this the day of July 13, 2009.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE